

Part 2

Incorporation

16-10a-201 Incorporators.

One or more persons may act as incorporators of a corporation by delivering to the division for filing articles meeting the requirements of Section 16-10a-202. An incorporator who is a natural person shall be at least 18 years old.

Amended by Chapter 378, 2010 General Session

16-10a-202 Articles of incorporation.

- (1) The articles of incorporation shall set forth:
 - (a) the purpose or purposes for which the corporation is organized;
 - (b) a corporate name for the corporation that satisfies the requirements of Section 16-10a-401;
 - (c) the number of shares the corporation is authorized to issue;
 - (d) the information required by Section 16-10a-601 with respect to each class of shares the corporation is authorized to issue;
 - (e) the information required by Subsection 16-17-203(1); and
 - (f) the name and address of each incorporator.
- (2) The articles of incorporation may set forth:
 - (a) the names and addresses of the individuals who are to serve as the initial directors;
 - (b) provisions not inconsistent with law regarding:
 - (i) managing the business and regulating the affairs of the corporation;
 - (ii) defining, limiting, and regulating the powers of the corporation, its board of directors, and its shareholders;
 - (iii) a par value for authorized shares or classes of shares; and
 - (iv) the imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; and
 - (c) any provision that under this chapter is permitted to be in the articles of incorporation or required or permitted to be set forth in the bylaws including elective provisions which, to be effective, shall be included in the articles of incorporation, as provided in this chapter.
- (3) It shall be sufficient under Subsection (1)(a) to state, either alone or with other purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under this chapter, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any.
- (4) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.
- (5) The articles of incorporation shall be signed by each incorporator and meet the filing requirements of Section 16-10a-120.
- (6)
 - (a) If this chapter conditions any matter upon the presence of a provision in the bylaws, the condition is satisfied if the provision is present either in the articles of incorporation or the bylaws.
 - (b) If this chapter conditions any matter upon the absence of a provision in the bylaws, the condition is satisfied only if the provision is absent from both the articles of incorporation and the bylaws.

Amended by Chapter 43, 2010 General Session
Amended by Chapter 378, 2010 General Session

16-10a-203 Incorporation.

- (1) A corporation is incorporated, and its corporate existence begins, when the articles of incorporation are filed by the division, unless a delayed effective date is specified pursuant to Subsection 16-10a-123(2), in which case the incorporation is effective, and the corporate existence begins, on the delayed effective date, unless a certificate of withdrawal is filed prior to the delayed effective date.
- (2) The filing of the articles of incorporation by the division is conclusive proof that all conditions precedent to incorporation have been satisfied, except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Enacted by Chapter 277, 1992 General Session

16-10a-204 Liability for preincorporation transactions.

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter, are jointly and severally liable for all liabilities created while so acting.

Enacted by Chapter 277, 1992 General Session

16-10a-205 Organization of the corporation.

- (1) After incorporation:
 - (a) if initial directors are named in the articles of incorporation, the initial directors may hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting; or
 - (b) if initial directors are not named in the articles of incorporation, then until directors are elected, the incorporator or incorporators may hold an organizational meeting at the call of a majority of the incorporators to do whatever is necessary and proper to complete the organization of the corporation, including the election of directors and officers and the adoption and amendment of bylaws.
- (2) Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.
- (3) An organizational meeting may be held in or out of this state.

Enacted by Chapter 277, 1992 General Session

16-10a-206 Bylaws.

- (1)
 - (a) The board of directors of a corporation may adopt initial bylaws for the corporation.
 - (b) If no directors have been elected the incorporators may adopt initial bylaws for the corporation.
 - (c) If neither the incorporators nor the board of directors have adopted initial bylaws, the shareholders may do so.

- (2) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation, including management and regulation of the corporation in the event of an emergency.

Enacted by Chapter 277, 1992 General Session